

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SAYLOR R. WHITE,

Plaintiff, : Case No. 3:21-cv-328

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

DAVE DENNIS CHEVROLET, et al.,

Defendants. :

DECISION AND ORDER DENYING MOTIONS

This case is before the Court on the Motion of Plaintiff for a Stay of report and recommendation and order adopting report and recommendations and reconsideration of report and recommendations on all motions and pleadings in this case and additional leave of the court to respond/reply to all pleadings and motions filed in case no. 3:21-cv-328 (ECF No. 52) and Motion for leave of plaintiff, Saylor R. White, to file replies to defendants and reports and recommendations by the Magistrate and reconsideration of the orders to adopt those reports and recommendations of the courts (ECF No. 53).

As grounds for these indefinite extensions of time, Plaintiff avers he has been ill and indeed hospitalized with COVID-19 pneumonia. However, he offers no outside proof of these facts other than his own assertion although presumably he has his hospital discharge papers available. He

also claims he does not have the large cadre of legal researchers and paralegals available to Defendants.

The difficulty with Plaintiff's position is that he has not yet shown he has any viable cause of action against any Defendant he has sued. The Fairborn Jail, the Montgomery County Jail, the Greene County Prosecutor's Office, and the Beavercreek Police Department are not suable entities. The State of Ohio is protected from suit in federal court by the Eleventh Amendment. Judges Stephen Wolaver and Beth Capelli are absolutely immune from suit. Dave Dennis VW and Emily Augsperger cannot be sued in federal court for defamation or malicious prosecution because they are citizens of the same State as Plaintiff. The Greene County Prosecutors Haller and Schmidt and Detective Piesaki are all protected by the one year statute of limitations for malicious prosecution.

Plaintiff had two years from the time the case against him in Common Pleas Court was dismissed. No additional amount of time has any possibility of producing a viable case against any of these Defendants.

The Motions for Stay and Leave to File Replies are DENIED because Plaintiff has no shown good cause to grant them. If Plaintiff uncovers some basis to proceed which the Magistrate Judge has not discovered, he can file a motion for relief from judgment for up to one year from the date any judgment is entered.

April 19, 2022.

s/ *Michael R. Merz*
United States Magistrate Judge